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सं० 27] नई दिल्ली, सितम्बर 10—सितम्बर 16, 2006, शनिवार/भाद्र 19—भाद्र 25, 1928

No. 27] NEW DELHI, SEPTEMBER 10—SEPTEMBER 16, 2006, SATURDAY/BHADRA 19—BHADRA 25, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 31 अगस्त, 2006

आ. अ. 90.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग 2004 की निर्वाचन अंगी संख्या 12 में इलाहाबाद उच्च न्यायालय, इलाहाबाद के तारीख 17 जनवरी, 2006 के निर्णय को एतद्वारा प्रकाशित करता है।

(निर्णय इस अधिसूचना के अंग्रेजी भाग में छपा है।)

[संख्या 82/उ.प्र.—लो.स./12/2004(इला.)]

आदेश से,

ललित मोहन, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 31st August, 2006

O.N. 90.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby published the Judgement dated 17th January, 2006 of the High Court of Judicature at Allahabad, Allahabad in Election Petition No. 12 of 2004.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL SIDE

ORIGINAL JURISDICTION

Allahabad, the 17th January, 2006

PRESENT

THE HON'BLE S.P. MEHROTRA, JUDGE

ELECTION PETITION NO. 12 OF 2004,
Order on the petition of Malook Nagar.

Petitioner

*In re*Malook Nagar S/o Sri Late Rameswar Dayal Resident of Village Shakarpur,
Tehsil - Hapur. District Ghaziabad.

Petitioner

Versus

1. Mohd. Shahid Alias Haji Shahid Akhlaq S/o Sri Mohd. Akhlaq R/o 211, Sabun Gran,
Meerut City, District Meerut.
2. Sarita Sagar W/o Ashok Kumar R/o Sofipur Post Office Rajban,
Meerut Cantt. District Meerut.

Respondents

Counsel for the Petitioner : Sri M.C. Gupta

Counsel for the Respondents : Sri C. S. Kushwaha.

BY THE COURT

COURT NO. 48

Election Petition No. 12 of 2004

Malook Nagar Petitioner

*Versus*Mohd. Shahid Alias Haji Shahid
Akhlaq and another Respondents**Hon'ble S.P. Mehrotra, J.**

Pursuant to the order dated 9-1-2006, the case is listed today.

Cause List has been revised. However, neither the learned counsel for the petitioner, nor the learned counsel for the Respondent No. 2 is present.

By the order dated 25th February, 2005, fresh notices were directed to be issued to the Respondent No. 1 by Ordinary Process as well as by Registered Post AD.

Sri M.C. Gupta, learned counsel for the petitioner was granted one month's time for taking requisite steps for issuance of fresh notices to the Respondent No. 1.

By the said order dated 25th February, 2005, it was, *inter alia*, further directed that reminder be issued to the Newspaper "Dainik Jagran", published in Hindi from Meerut, in regard to the matter pertaining to publication of notice of the Election Petition in the said Newspaper, pursuant to the order dated 17-12-2004 passed by the Court read with the order dated 5-1-2005 passed by the Registrar General.

Pursuant to the said order dated 25th February, 2005, the case was listed before the Court on 15th April, 2005 with the Office Report dated 15th April, 2005.

The said Office Report dated 15-4-2005, *inter-alia*, stated that the learned counsel for the petitioner had not taken steps till date, as per the directions given in the said order dated 25th February, 2005.

The said Office Report further showed that the reminder had been sent to the Newspaper "Dainik Jagran", published in Hindi from Meerut, as directed by the said order dated 25th February, 2005.

On the said date, namely, 15th April, 2005, Sri M.C. Gupta, learned counsel for the petitioner had sent illness slip.

In the circumstances, the case was adjourned on 15th April, 2005, and was directed to be listed on 8th July, 2005.

Relevant portion of the said order dated 15th April, 2005 is reproduced below :

"..... By the said order dated 25-2-2005, fresh notices were directed to be issued to the Respondent No. 1 by Ordinary Process as well as by registered Post A.D."

Sri M.C. Gupta, learned counsel for the petitioner was granted one month's time for taking requisite steps for issuance of fresh notices to the respondent No. 1.

As noted above, office has submitted its aforesaid Report dated 15-4-2005 today. It is, inter-alia, stated in the said Report that the learned counsel for the petitioner has not taken steps till today, as per the directions given in the said order dated 25-2-2005.

As Sri M.C. Gupta, learned counsel for the petitioner has sent illness slip today the said matter will be considered on the next date fixed in the case.

By the said order dated 25-2-2005, it was, inter-alia, directed that reminder be issued to the Newspaper "Dainik Jagran", published in Hindi from Meerut, in regard to the matter pertaining to publication of notice of the Election Petition in the said Newspaper, pursuant to the order dated 17-12-2004 passed by the Court read with the order dated 5-1-2005 passed by the Registrar General.

Office Report dated 15-4-2005 shows that the reminder has been sent to the said Newspaper "Dainik Jagran", published in Hindi from Meerut, as directed by the said order dated 25-2-2005.

As Sri M.C. Gupta, learned counsel for the petitioner has sent illness slip today, the said matter will be considered on the next date fixed in the case.

As Sri M.C. Gupta, learned counsel for the petitioner has sent illness slip today, the case is adjourned today.

List on 8-7-2005. The name of Sri Chandra Shekher Kushwaha, who has put in appearance on behalf of the Respondent No. 2, will be shown in the cause list, when the case is listed next."

Pursuant to the said order dated 15th April, 2005, the case was listed on 8th July, 2005 with the Office Report dated 8th July, 2005.

The said Office Report dated 8th July, 2005 is as follows :

"*In compliance with the Court's order dated 15-4-2005, the petitioner's counsel has not taken steps till today in the said order dated 25-2-2005.*

The Dainik Jagran Press, Meerut has sent a letter on 11th January, 2005 by Registry to the Deputy Registrar (J) High Court, Allahabad. This letter has received on 20-4-2005 by D.R. (J).

The Press has also mentioned Bill of Rs. 1980-in favour of Jagran Prakashan Pvt. Ltd., Meerut or Allahabad Office.

The case is put up for orders."

The letter dated January 11, 2005 sent by the Jagran Prakashan Pvt. Ltd., Meerut is on the record.

From a perusal of the said letter, it is not clear as to whether notice of the Election Petition has been published in the said newspaper.

The Court is informed that no copy of the said newspaper containing any such publication of the notice of the Election Petition has been received from the Dainik Jagran Press, Meerut.

On the said date, i.e., 8th July, 2005, Sri M.C. Gupta, learned counsel for the petitioner had again sent illness slip. In the circumstances, the case was adjourned and was directed to be listed on 2nd September, 2005.

The said order dated 8th July, 2005 is quoted below :

"Pursuant to the order dated 15-4-2005, the case is listed today.

Sri M.C. Gupta, learned counsel for the petitioner has sent illness slip today

In the circumstances, the case is adjourned today.

The matters mentioned in the order dated 15-4-2005 as well as the Office Report dated 8-7-2005 will be considered on the next date fixed in the matter.

List this case on 2-9-2005."

Pursuant to the said order dated 8th July, 2005, the case was listed before the Court on 2nd September, 2005 with the Office Report dated 2nd September, 2005.

On the said date, i.e. 2nd September 2005, Sri M.C. Gupta, learned counsel for the petitioner as well as Sri Chandra Shekher Kushwaha, learned counsel for the Respondent No. 2 had sent illness slips.

In the circumstances, the case was adjourned, and was directed to be listed on 21st October, 2005.

The said order dated 2nd September, 2005 is reproduced below :

"Pursuant to the order dated 8-7-2005, the case is listed today.

Sri M.C. Gupta, learned counsel for the petitioner as well as Sri Chandra Shekher Kushwaha, learned counsel for the Respondent No. 2 have sent illness slips today.

In the circumstances, the case is adjourned today.

The matters mentioned in the order dated 15-4-2005 as well as the Office Report dated 8-7-2005 and 2-9-2005, will be considered on the next date fixed in the matter.

List this case on 21-10-2005.

The case will be listed amongst the cases listed at the top of the cause list of the said date."

Pursuant to the said order dated 2nd September, 2005, the case was listed before the Court on 21st October, 2005 with the Office Report dated 21st October, 2005.

On the said date, i.e., 21st October, 2005, Sri M.C. Gupta, learned counsel for the petitioner had again sent illness slip.

In the circumstances, the case was adjourned and was directed to be listed on 25th November, 2005.

The said order dated 21st October, 2005 is as under :

"Pursuant to the order dated 2-9-2005, the case is listed today.

Sri M.C. Gupta, learned counsel for the petitioner has sent illness slip today.

In the circumstances, the case is adjourned today.

The matters mentioned in the order dated 15-4-2005 as well as Office Report dated 8-7-2005, 2-9-2005 and 21-10-2005 will be considered on the next date fixed in the matter.

List this case on 25-11-2005.

The case will be listed amongst the cases listed at the top of the cause list of the said date."

Pursuant to the order dated 21st October, 2005, the case was sent before the Court on 25th November, 2005, as an unlisted date fixed matter with the Office Report dated 25th November, 2005.

On the said date, i.e., 25th November, 2005, the case was called out. However, as the learned counsel for the parties were not present, the case was adjourned, and was directed to be listed on 9th December, 2005.

The said order dated 25th November, 2005 (incorrectly transcribed as "26-11-2005" on the Order Sheet) is as follows :

"Pursuant to the order dated 21-10-2005, the case has been sent today as an unlisted date fixed matter.

Case called out.

Learned counsel for the parties are not present.

In the circumstances, the case is adjourned today.

The matters mentioned in the order dated 15-4-2005 as well as the Office Reports dated 8-7-2005, 2-9-2005 and 21-10-2005 will be considered on the next date fixed in the matter.

List this case on 9-12-2005.

The case will be listed amongst the cases listed at the top of the cause list of the said date."

Pursuant to the said order dated 25th November, 2005, the case was listed before the Court on 12th December, 2005 with the Office Report.

On the said date, i.e., 12th December, 2005, Sri M.C. Gupta, learned counsel for the petitioner had again sent illness slip.

In the circumstances, the case was adjourned and was directed to be listed on 9th January, 2006, peremptorily.

The said order dated 12th December, 2005 is as follows :

" Pursuant to the order dated 26th November, 2005, the case is listed today.

Sri M.C. Gupta, learned counsel for the petitioner has sent illness slip today.

In the circumstances, the case is adjourned today.

The matters mentioned in the order dated 15-4-2005 as well as the Office Report dated 8-7-2005, read with the subsequent Office Reports, will be considered on the next date fixed in the matter.

List this case on 9th January, 2006, peremptorily.

The case will be listed amongst the cases listed at the top of the cause of the said date."

Pursuant to the said order dated 12th December, 2005, the case was listed before the Court on 9th January, 2006, peremptorily with the Office Report dated 9th January, 2006.

Even though the case was listed peremptorily on 9th January, 2006, Sri Chandra Shekher Kushwaha, learned counsel for the Respondent No. 2 had sent illness slip.

In the circumstances, the case was directed to be listed peremptorily on 17th January 2006, i.e., today.

The said order dated 9th January, 2006 is quoted below :

" Pursuant to the order dated 12-12-2005, the case is listed today peremptorily.

However, Sri Chandra Shekher Kushwaha, learned counsel for the Respondent No. 2 has sent illness slip.

In the circumstances, the case is directed to be listed peremptorily on 17-1-2006.

The case will be listed amongst the cases listed at the top of the cause list of the said date.

The matters mentioned in the order dated 15-4-2005 as well as the Office Report dated 8-7-2005 read with the subsequent Office Reports, will be considered on the next date fixed in the matter."

Pursuant to the said order dated 9th January, 2006, the case is listed today peremptorily, as noted above.

The case has been taken up in the revised list today, but the learned counsel for the parties are not present.

In view of the above narration of facts, it is evident that the learned counsel for the petitioner has not so far taken the requisite steps for issuance of fresh notices to the Respondent No. 1, as directed by the order dated 25th February, 2005.

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It is not clear on the record, as to whether notice of the Election Petition has been published in the newspaper "Dainik Jagran", published in Hindi from Meerut, pursuant to the order dated 17th December, 2004 passed by the Court read with the order dated 5-1-2005 passed by the Registrar General. No copy of the newspaper "Dainik Jagran", wherein any such notice of the Election Petition was published, has been brought on record.

None is present for the petitioner today, even though, the case has been taken up in the revised list:

In the circumstances, the Court has no option, but to dismiss the Election Petition for want of prosecution.

The Election Petition is accordingly dismissed for want of prosecution.

Sd-

S. P. MEHROTRA

Dated 17-01-2006

[No. 82/UP-HP/12/2004 (Alld.)]

By Order,

LALIT MOHAN, Secy.